

EXHIBIT 3

to the Southern Utah Wilderness Alliance's

Motion to Intervene

*BlueRibbon Coalition, Inc. v. U.S. Bureau of Land
Management, 4:25-cv-00022-DN*



March 22, 2024

Dana Truman
Jaydon Mead
Bureau of Land Management
Price Field Office
125 South 600 West
Price, UT 84501

Letter¹ submitted via email to blm_ut_pr_comments@blm.gov and jmead@blm.gov

Re: San Rafael Swell Travel Management Plan, DOI-BLM-UT-G020-2019-0019-EA Preliminary Alternatives Comments

Dear Dana and Jaydon:

Please accept the following comments submitted by the Southern Utah Wilderness Alliance (SUWA) regarding BLM's preliminary alternatives (EA) for the San Rafael Swell Travel Management Plan (TMP or "Travel Plan"), DOI-BLM-UT-G020-2019-EA. SUWA previously submitted timely scoping comments on the TMP and incorporates those comments by reference.²

In developing the San Rafael Swell Travel Plan, BLM must ensure that the Plan complies with the terms of the Settlement Agreement in the case captioned *Southern Utah Wilderness Alliance et al. v. U.S. Department of the Interior, et al.*, Case No. 2:12cv257 (DAK),³ as well as all aspects of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321-4370f; the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. §§ 1701-1785; the National Historic Preservation Act (NHPA), 54 U.S.C. §§ 300101-307108; Executive Orders 11644 and 11989, the minimization requirements for route designations set forth in FLPMA's

¹ A flash drive with the route reports, spatial data and certain other materials identified in this letter have been mailed to your attention today, via First Class United States Mail.

² A copy of SUWA's scoping comments is attached to the flash drive.

³ A copy of the Settlement Agreement is available at BLM Utah's Travel and Transportation webpage:

[https://eplanning.blm.gov/public_projects/nepa/93510/169299/205894/Final Settlement Agreement.pdf](https://eplanning.blm.gov/public_projects/nepa/93510/169299/205894/Final%20Settlement%20Agreement.pdf)

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regulations, BLM Manual 1626, BLM Handbook H-8342 and all other applicable federal regulations and agency guidance applying these laws and regulations. BLM also must comply with the John D. Dingell, Jr. Conservation, Management and Recreation Act and Executive Orders 13,990 and 14,008.

Only one of the preliminary alternatives that BLM released to the public on February 22, 2024 –Alternative B– complies with the letter and spirit of Executive Order 11644 and the minimization regulations. Alternatives C and D significantly increase the number and mileage of motorized vehicle routes in the planning area, fail to minimize both damage to important natural and cultural resources, fail to minimize resource conflicts, and fail to account for Biden administration policy of encouraging the protection of intact landscapes.

The San Rafael Swell travel plan is a critically important plan covering some of the most popular and frequently visited BLM-managed lands in Utah. This travel plan is an opportunity to develop a reasonable, manageable and forward-thinking blueprint that ensures public access to the outdoors while preserving the backcountry and meeting BLM’s duty to minimize damage to natural and cultural resources. Visitation to Utah’s public lands (including the San Rafael Swell) is skyrocketing and shows no sign of diminishing. Utah’s public lands and natural resources are under increasing threat from the impacts of climate change. Precisely because of these challenges, thoughtful and deliberate travel planning is critical. The planning process is an opportunity to strike a balance between motorized vehicle use, preservation of sensitive resources and opportunities for quiet recreation. Only Alternative B leads in the direction of reaching that goal.

Route-Specific Comments

We’re pleased to provide BLM with the enclosed flash drive which includes electronic copies of route reports prepared by SUWA. Each route report contains photographs and narrative text regarding 192 routes that are either (1) scoping routes – that is, routes not designated as “open” to motorized use in the 2008 Price RMP but receiving illegal use – or (2) routes currently designated as “open” to motorized vehicle use in the 2008 Price RMP but which have reclaimed, may have never existed in the first place, are redundant, are causing resource damage, and/or have resource conflicts. We propose that BLM identify each of these 192 routes as “closed” to motorized use in at least one alternative in the draft San Rafael Swell travel management plan and ultimately close them in the final TMP.

We have also included a shapefile which contains the geometries and unique route IDs used to generate the San Rafael Swell TMA route reports. Routes, or segments of routes, identified in the reports directly correspond to the data within this shapefile. Original data are from BLM scoping routes.

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Defensible Route Network

BLM's Baseline Monitoring Report makes clear that it struggles to effectively manage motorized vehicle use in the planning area and that the current authorized travel plan facilitates significant off-route damage. *See generally*, BLM, *Baseline Monitoring Report for the San Rafael Swell TMA*, Price (2024).⁴ Off-route damage seems prevalent related to single-track routes. *See, e.g. id.* at PDF p. 43 (documenting unauthorized dirt bike use, damaging soil crusts); PDF pp. 51-52 (documenting unauthorized dirt bike and ATV/UTV use creating a play area and damaging soils); PDF p. 54 (document unauthorized dirt bike use damaging soil crusts); PDF p. 63 (documenting "excessive trail braiding and off trail use," expanding motorized impact); PDF p. 68 (documenting significant route widening, expanding motorized vehicle damage). Unauthorized use also appears to be prevalent in washes where motorized users travel beyond well beyond designated routes. *See, e.g., id.* at PDF pp. 29, 34, 35, 55, 57.

However, rather than take manageability into account in these preliminary alternatives, BLM is contemplating significantly expanding the motorized route network, including with particularly problematic route types. Preliminary Alternatives C and D would substantially increase the number and mileage of single-track routes, would increase routes in washes, would designate routes with arbitrary end points and would designate routes that facilitate illegal use in designated wilderness.

We encourage BLM to expressly take manageability and enforceability into account as it moves forward in the travel planning process. Quite simply, because BLM is clearly having difficulty enforcing and managing the existing route designations – alternatives that would expand the number and miles of route available for motorized use should be discouraged. Likewise, statements that motorized users and user-groups can self-regulate their activities must be held up against the fact that this largely has not happened over the past decades.

Climate Change

Shortly after taking office, President Biden signed a series of executive orders highlighting the pressing threat of global climate change and directing federal agencies to help combat the climate crisis. On his first day in office, President Biden signed Executive Order (EO) 13,990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, 86 Fed. Reg. 7073 (Jan. 25, 2021), announcing a national commitment to "immediately commence work to

⁴ A copy of Baseline Monitoring Report is available online at BLM ePlanning page for the San Rafael Swell TMP: <https://eplanning.blm.gov/eplanning-ui/project/1500146/570>.

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confront the climate crisis.” EO 13,990 § 1. EO 13,990 establishes a national policy to, among other things, reduce greenhouse emissions and “bolster resilience to the impacts of climate change.” *Id.* It directs federal agencies to review all regulations, policies or similar agency actions that may be inconsistent with this mandate.

Executive Order 14,008 provides more detail regarding President Biden’s expectation that federal agencies will play a pivotal role in combating the climate crisis. EO 14,008, *Tackling the Climate Crisis at Home and Abroad*, 86 Fed. Reg. 7619 (Feb. 1, 2021). President Biden committed to “deploy the full capacity of [federal] agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change . . . [and] conserves our lands, waters, and biodiversity . . .” *Id.* § 201. The EO also directs the Department of the Interior (DOI) to work with stakeholders to identify and recommend steps toward conserving 30 percent of U.S. lands and waters by 2030. *Id.* § 216.

To implement these orders, the DOI recently promulgated *Department of the Interior Climate Action Plan*.⁵ In that plan, DOI committed “to effectively and efficiently confront and adapt to the challenges that climate change poses . . . [and] take concrete steps to adapt to and mitigate climate change impacts on its resources.”⁶ The climate action plan identified nine institutional approaches to integrating climate adaptation into DOI’s policies, programs and operations.⁷ The plan also identifies vulnerabilities that directly impact DOI’s mission as well as climate adaptation actions the Department plans to undertake for fiscal years 2021-2026.

BLM’s travel plan must comport with DOI’s climate action plan and incorporate DOI’s institutional approaches to integrating climate change into this travel planning process. Those institutional approaches include using the best available science and traditional knowledge, mainstreaming climate change adaptation, maximizing co-benefits, and applying nature-based solutions and ecosystem-based approaches.⁸

In its travel planning analysis, BLM must use the best available information to consider existing and projected climate change vulnerabilities, risks and impacts

⁵ Dep’t of Interior, *Climate Action Plan* (2021), available at <https://www.doi.gov/sites/doi.gov/files/departments-of-interior-climate-action-plan-final-signed-508-9.14.21.pdf>. Copy of the Climate Action Plan is also attached to the flash drive.

⁶ See *id.* (Department of the Interior Policy Statement for Climate Adaptation and Resilience).

⁷ *Id.* at 2-3.

⁸ *Id.* at 2-3.

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and the role that ORV use on public lands plays in those impacts. Motorized vehicle use contributes significantly to greenhouse gas emissions.⁹ ORVs also cause surface disturbance, thereby increasing erosion and the generation of dust, damage that exacerbates climate change impacts.¹⁰ In addition, closing sensitive areas to ORV use is a key part of climate adaptation that maximizes co-benefits to restore large-scale landscapes that provide critical wildlife habitat, protect limited water resources and reduce greenhouse gas emissions.

All told, reducing the number of designated routes supports DOI's institutional approach to climate action that focuses on nature-based solutions and ecosystem-based approaches. Limiting motorized recreation reduces environmental vulnerability to climate change and is a cost-effective approach to increase ecosystem resilience, reduce greenhouse gas emissions and protect ecosystem services.

In addition to institutional approaches, DOI's climate action plan identified five vulnerabilities that impact its mission, including biodiversity and ecosystems.¹¹ DOI noted that it "is committed to enhancing biodiversity; sustaining ecological processes; promoting the health and function of ecosystems by sustaining fish, wildlife and place species; restoring native vegetation and natural ecosystem processes; preventing and addressing invasive species; and mitigating the impacts of wildland fire."¹² The plan further acknowledges that DOI must restore and reconnect degraded landscapes, enhance ecological connectivity and preserve significant landscapes. Each of these goals would be served by reducing the number and mileage of ORV routes in the San Rafael Swell TMP. ORVs fragment wildlife habitat, degrade land and water resources, spread invasive species and damage landscapes¹³. Reducing the motorized route network in the San Rafael Swell TMA is a cost-effective method of furthering DOI's climate goals.

⁹ See, e.g., Adam Switalski, *Off-highway vehicle recreation in drylands: A literature review and recommendations for best management practices*, 21 J. of Outdoor Recreation & Tourism 87, 88 (2018) (attached).

¹⁰ *Id.*; see also Michael C. Duniway et al., *Wind Erosion and dust from US drylands: a review of causes, consequences, and solutions in a changing world*, Ecosphere 10(3) 11-12 (2019) (attached) (recognizing the role that dust in the atmosphere—including from unpaved OHV route network—can affect global temperatures).

¹¹ See *Climate Action Plan* at 4-11.

¹² *Id.* at 9.

¹³ See, e.g., Douglas S. Ouren et al., *Environmental Effects of Off-Highway Vehicles on Bureau of Land Management Lands: A Literature Synthesis, Annotated Bibliographies, Extensive Bibliographies, and Internet Resources*, Open-File Report 2007-1353 (2007) (a copy is attached to the flash drive with the route reports).

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Finally, for fiscal years 2021-2026, DOI has committed to a series of climate change adaptation actions.¹⁴ Reducing the dominance of ORVs on public lands is necessary to support these actions, particularly to promote climate-resilient lands, waters and cultural resources.

BLM's preliminary alternatives, especially Alternatives C and D do not reflect that the agency contemplated the climate change implications of the Labyrinth Rims/Gemini Bridges travel plan.

John D. Dingell, Jr. Conservation Management and Recreation Act

In February 2019, Congress passed the John D. Dingell, Jr., Conservation, Management and Recreation Act (Dingell Act). The Dingell Act designated 427,055 acres of wilderness¹⁵ within the San Rafael Swell TMA which must be managed in accordance with that Wilderness Act. Pub. L. 116-9, § 1231, 133 Stat. 580, 671-675 (2019). The Dingell Act also established the 217,000-acre¹⁶ San Rafael Swell Recreation Area “to provide for the protection, conservation, and enhancement of the recreational, cultural, natural, scenic, wildlife, ecological, historical, and educational resources of the Recreation Area.” *Id.* § 1221(b). The Recreation Area is to be administered “in a manner that conserves, protects, and enhances the purposes for which the Recreation Area is established.” *Id.* § 1222(a)(1). The entirety of the San Rafael Swell Recreation Area is within the TMA.

BLM must comply with the Dingell Act as develops the travel plan. Accordingly, the travel plan must protect, conserve and enhance recreational, cultural, natural, scenic, wildlife, ecological, historical and educational resources in the Recreation Area. Pub. L. 116-9, § 1222(a)-(b). The travel plan cannot prioritize motorized vehicle use at the expense of natural, cultural and ecological resources. According to the Dingell Act, motorized vehicles “shall be permitted only on roads and motorized routes designated in the Management Plan for the use of motorized vehicles.” *Id.* § 1222(d)(1). And, “[n]o new permanent or temporary roads or other motorized vehicle routes shall be constructed within the Recreation Area after the date of the enactment of this Act.” *Id.* §1222(d)(2) (emphasis added). BLM should not designate *any* new routes in the Recreation Area. Both Alternatives C and D would significantly increase the number and mileage of routes within the Recreation Area. This is inconsistent with the Dingell Act and does not conserve, protect or enhance the purposes of the Recreation Area. BLM must affirmatively demonstrate how its alternative route designations conserve, protect and enhance the purposes for which

¹⁴ *Climate Action Plan* at 16-19.

¹⁵ This number will increase to approximately 474,000 acres once the land exchange with Utah Trust Lands Administration is finalized.

¹⁶ This number will increase to approximately 251,000 acres once the land exchange with Utah Trust Lands Administration is finalized.

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the Recreation Area was created, including the protection and conservation of cultural, natural, scenic, wildlife and ecological values.

Thank you for your consideration of these comments. Please let me know if you have any questions.

Sincerely,

A handwritten signature in dark ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Stephen Bloch
Laura Peterson

Cc: Matt Preston, Deputy State Director